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SUBJECT: CIVAIR - US-ITALY BILATERAL RELATIONS

REF: STATE 84432

1. SUMMARY. SINCE ALITALIA (AND THEREFORE GOI) DESIRES RE-NEGOTIATE 1970 US-ITALY AIR TRANSPORT AGREEMENT (ATA), EMBASSY BELIEVES RECENT USG-GOI CIVAIR CONSULTATIONS WERE BOUND TO FAIL. ALITALIA DESIRES LARGER SHARE OF US-ITALY MARKET AND BELIEVES THIS CAN BE ACHIEVED THROUGH (A) APPROPRIATE CHANGES IN BILATERAL RE US CARRIERS BEYOND RIGHTS AND CAPACITY REGULATION AND (B) STRICT GOI CHARTER POLICY TO PREVENT DIVERSION FROM SCHEDULED TRAFFIC. TO "ENCOURAGE" USG TO RENEGOTIATE ATA, CIVILAVIA IS LIKELY TO INCREASE PRESSURE ON US CARRIERS. ASSUMING NEITHER USG NOR US CARRIERS DESIRE RENEGOTIATE ATA, WE SHOULD DEVELOP STRATEGY WHICH WILL ENABLE US TREAT EACH ISSUE SEPARATELY WHILE DEVELOPING MAXIMUM USG LEVERAGE TO PROTECT US CARRIERS. SPECIFIC RECOMMENDATIONS TO THIS END DISCUSSED BELOW. END SUMMARY.

2. REVIEWING APRIL 2-4 US-ITALY CIVAIR CONSULTATIONS IN LIGHT OF DEVELOPMENTS OVER LAST 18 MONTHS AND RECENT COMMENTS BY ALITALIA, CIVILAVIA AND MINISTRY FOREIGN AFFAIRS (MFA) REPS, EMBASSY CONCLUDES TALKS WERE BOUND TO FAIL AND THAT FURTHER

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DISCUSSION OF ISSUES LISTED REFTEL UNLIKELY TO BE PRODUCTIVE.

ALITALIA (AS NOTED REFTEL) -- AND THEREFORE CIVILAVIA AND MFA -- BELIEVES CURRENT BILATERAL ATA AND MEMORANDUM OF UNDERSTANDING (MOU) ARE UNBALANCED IN FAVOR OF USG AND US CARRIERS AND WOULD LIKE TO RENEGOTIATE THEM.

3. ITALIANS ESPECIALLY UNHAPPY WITH: (A) US CARRIERS EXTENSIVE BEYOND RIGHTS FROM ITALY, AS COMPARED WITH THOSE HELD BY ALITALIA FROM US; AND (B) USG ATTITUDE TOWARD CAPACITY REGULATION, AS EXEMPLIFIED BY MOU PROVISION ON EXTRA SECTIONS, ENGLISH LANGUAGE VERSION OF MOU PROVIDING FOR CONSULTATIONS ONLY IN CASE OF INCREASED CAPACITY, AND PROVISIONS OF ARTICLE 9(E) OF ATA. BEYOND SCOPE OF ATA, LIBERAL USG CHARTER POLICY AND CAB REFUSAL FIX FIRM "REASONABLE" MINIMUM CHARTER PRICE ALSO CAUSE ALITALIA HEARTBURN.

4. OVER LAST TWO MONTHS ALITALIA, CIVILAVIA AND MFA REPS HAVE FREQUENTLY INDICATED TO EMBOFF THAT ATA AND MOU WERE NEGOTIATED WHEN MARKET CONDITIONS WERE MUCH DIFFERENT FROM THOSE NOW OBTAINING AND THAT ATA SHOULD REFLECT THESE CHANGED CONDITIONS. ALITALIA BELIEVES IT IS "ENTITLED" TO LARGER SHARE OF US-ITALY MARKET, ESPECIALLY CARGO AND CHARTER OPERATIONS, BUT ALSO SCHEDULED PASSENGER TRAFFIC. ALITALIA UNWILLING ACKNOWLEDGE THAT ITS OWN AND CIVILAVIA POLICIES AND/OR AIRCRAFT AVAILABILITY MAY HAVE Affected ITS MARKET SHARE.

5. UNDER CIRCUMSTANCES DESCRIBED ABOVE, IT NOT RPT NOT IN ITALIAN INTERESTS TO RESOLVE OUTSTANDING CIVAIR ISSUES BEFORE OPENING NEGOTIATIONS FOR NEW ATA. CONSEQUENTLY, EMBASSY EXPECTS INCREASING CIVILAVIA/ALITALIA PRESSURE ON US CARRIERS IN AREAS SUCH AS CAPACITY, EXTRA SECTIONS, ADHERENCE TO SCHEDULES, AND CHARTER OPERATIONS. WE SHOULD THEREFORE DEVELOP STRATEGY WHICH WILL ENABLE US TO TREAT, INSOFAR AS POSSIBLE, EACH ISSUE SEPARATELY WHILE DEVELOPING MAXIMUM USG LEVERAGE TO PROTECT US CARRIERS (ASSUMING THAT RENEGOTIATION OF ATA AT PRESENT NOT RPT NOT DESIRED BY USG OR US CARRIERS). EMBASSY RECOMMENDATIONS ON SEPARATE ISSUES FOLLOW.

6. MOU LANGUAGE DISCREPANCIES. MAINTAIN PRESENT USG LEGAL POSITION THAT DISCREPANCIES EXIST ONLY IN ITALIAN LANGUAGE VERSION, BUT CONTINUE TO FILE ALL SCHEDULES WITH MFA 90 AND LIMITED OFFICIAL USE

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60 DAYS IN ADVANCE "FOR INFORMATION OF APPROPRIATE ITALIAN AUTHORITIES" WITHOUT REFERENCE TO PARA (5) OF MOU. THIS WOULD PRECLUDE UNILATERAL CIVILAVIA ACTION AGAINST US CARRIERS BUT WOULD NOT IMPLY USG RECOGNITION OF LEGAL REQUIREMENTS OF ITALIAN VERSION OF MOU. IF GOI REQUESTS CONSULTATIONS WHEN SCHEDULES DO NOT RPT NOT PROVIDE FOR INCREASED CAPACITY, USG SHOULD DECLINE TO CONSULT UNDER PARA (5) MOU, BUT MIGHT AGREE TO CONSULT UNDER APPROPRIATE PROVISIONS OF ATA IF USG BELIEVES CON-

SULTATIONS ARE NECESSARY.

7. CAPACITY. USG SHOULD ACT TO FREEZE ALITALIA CAPACITY AS LONG AS GOI MAINTAINS FREEZE ON US CARRIERS CAPACITY. WE MUST AVOID SITUATION WHERE ALITALIA IS FREE TO ADD CAPACITY WHEN US CARRIERS MAY NOT.

8. ALITALIA PAYMENT OF LANDING FEES. ACCORDING ROME AIRPORT AUTHORITY (SAR) MANAGING DIRECTOR POSTIGLIONE, ALITALIA STILL NOT RPT NOT PAYING USER FEES AT ROME AIRPORTS. GOI HAS DECIDED ALITALIA MAY SUSPEND PAYMENTS UNTIL COMPLICATED LEGAL AND TECHNICAL ISSUES RESOLVED, PROBABLY THROUGH TIME-CONSUMING COURT ACTION OR LEGISLATIVE PROCESS. SAR HAS IN FACT BEEN BILLING ALITALIA SINCE IT TOOK OVER MANAGEMENT OF ROME AIRPORTS ON JULY 1, 1974. OUR QUARREL IS NOT PROPERLY WITH ALITALIA OR SAR, BUT WITH GOI. GOI KNOWINGLY COMMITTED ITSELF ON JUEN 22, 1970 IN ARTICLE 7 OF ATA TO CHARGE US CARRIERS SAME FEES AS THOSE PAID BY ALITALIA. UNTIL JULY 1, 1974 ROME AIRPORTS WERE OWNED AND OPERATED BY GOI. SINCE GOI DID NOT RPT NOT COLLECT FROM ALITALIA DURING PERIOD JUNE 22, 1970 TO JULY 1, 1974, USG COULD ARGUE THAT US CARRIERS ENTITLED TO REFUND FROM GOI OF FEES PAID FOR USE OF FIUMICINO AND CIAMPINO AIRPORTS DURING THIS PERIOD. EMBASSY BELIEVES THAT USG SUBMISSION OF DIPLOMATIC CLAIM TO GOI FOR REFUND OF SUCH USER FEES WOULD EXPEDITE (FAVORABLE) GOI CONSIDERATION OF WHETHER ALITALIA MUST PAY USER FEES TO SAR.

9. EXTRA SECTIONS. PROPOSED PRE-SEASON APPROVAL OF EXTRA SECTIONS (PARA 6 REFTEL) ONLY LIKELY TO DEMONSTRATE THAT US CARRIERS DESIRE MANY MORE EXTRA SECTIONS THAN DOES ALITALIA. LOCAL PAA REP INDICATES PAA NEEDS MINIMUM OF 20 EXTRA CARGO SERVICES A WEEK, WHICH TENDS TO SUPPORT GOI CONTENTION THAT EXTRA SECTIONS ARE NOT USED TO COPE WITH TEMPORARY (AND UNLIMITED OFFICIAL USE

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FORESEEN) OVERFLOW BUT IN FACT REPRESENT EXTRA CAPACITY BEYOND THAT APPROVED IN SCHEDULES. EMBASSY BELIEVES USG WOULD HAVE MORE LEVERAGE IF ALL ALITALIA EXTRA SECTIONS REQUIRED PRIOR RPT PRIOR CAB APPROVAL AND RECOMMENDS THAT CAB PROCEEDINGS TO THAT END BE INSTITUTED IF AND WHEN PRE-SEASON PRIOR APPROVAL APPROACH IS DEEMED UNPRODUCTIVE.

10. CHARTERS. TRY TO NEGOTIATE AGREEMENT SUGGESTED PARA 7 REFTEL. EMBASSY WILLING UNDERTAKE THIS TASK EVEN IF CHANCES OF SUCCESS APPEAR SMALL. IF CIVILAVIA BEGINS SELECTIVE INSPECTION OF US CHARTER FLIGHTS TO DETERMINE WHETHER PASSENGERS MEET CHARTER REQUIREMENTS, US CIVIL AUTHORITIES SHOULD BE PREPARED TO UNDERTAKE SIMILAR INSPECTIONS OF ALITALIA CHARTER FLIGHTS. VOLPE

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